

GOLDEN BULLETS

Ryan M. Wilson
Fraser Trebilcock Davis & Dunlap, P.C./Lawyers
124 West Allegan Street, Suite 1000
Lansing, MI 48933
Telephone: (517) 377-0897
Fax: (517) 482-0887
Email: rwilson@fraserlawfirm.com

THOUGHT YOU'D LIKE TO SEE THIS

Charitable Gift Annuities

Let's assume you want to do something wonderful for your favorite charity—but you'd also like the charity to do something wonderful for you. You'd like a large income tax deduction for your gift to the charity, but you'd also like to have an income you could never outlive, no matter how long you live. The Charitable Gift Annuity (CGA) isn't for everyone—but it might be just the right thing for you!

The Charitable Gift Annuity is used by religious organizations, private colleges and universities, and many national health, environmental, and social service organizations. It's a contract between a donor and a qualified charity. The donor transfers cash and/or appreciated property to the charity. In return the charity makes an unsecured promise to pay an annuity to the donor or his/her designated annuitant, typically for life. So you could transfer cash and/or other property (such as publicly-traded securities) to a charity in exchange for a legal commitment by that organization to pay you an agreed-upon amount of income annually for as long as you live.

Technically, two things are happening simultaneously, a gift and the purchase of an annuity. First, you are making a gift to the charity of the excess of the value of the cash and/or property you transfer to the charity over the value of the annuity the charity guarantees to pay you.

This excess is the measure of your charitable income tax deduction. The deduction arises because the charity is paid an amount for the annuity that is greater than you would have paid for the same sized annuity from a commercial carrier. The excess payment generates your charitable deduction.

Why and when should you consider a CGA? You should consider a CGA when you want:

- to make a gift to charity but also want to obtain a known and steady source of income,
- a relatively high guaranteed rate of return,
- to minimize or reduce investment risks and management aggravation,
- to reduce your investment worries and responsibilities,
- to avoid capital gain on the charitable portion of the transfer and spread out the recognition of capital gain on the bargain sale portion,

- to increase your cash flow from currently owned assets,
- when the amount in question is relatively small and not large enough to warrant the creation of a Charitable Remainder Trust (CRT),
- a significant increase in after-tax income but own an asset such as stock paying low dividends or unproductive land or have a highly appreciated asset which, if sold to generate income—or more income—would result in a large capital gain,
- an alternative for a reverse mortgage which is often hard to find and relatively expensive.

Childless and same sex couples and those individuals wishing to benefit and provide financial security for close friends and relatives often find CGAs appealing since you can make a gift to the charity in return for an annuity for life paid to a relative or close friend. Older (in their '70s) individuals are the biggest annuitant population while the late '50s is an age where deferred CGAs (payments are delayed for a set number of years after you make your gift) become popular. Many CGA annuitants are single, either never married, or have lost a spouse prior to purchasing a CGA.

From a charity's perspective, the CGA is an appealing way to raise large amounts of future capital. A CGA is relatively easy to explain. Legally, the contract often can be reduced to two or three pages—coupled with a few pages of supporting information which provides examples of the potential benefit to the donor and a computation of the anticipated tax consequences.

Of course, there is no perfect financial tool. CGAs are no exception. To some extent, when a smaller or less financially sound charity is involved, the donor takes a risk that the charity will not be able to make payments as promised. This is because the charity's promise to pay the annuity cannot be secured and, although the charity's entire assets are subject to the obligation, it remains only a general claim against the charity's assets. (It is permissible for a charity to set aside the contributed funds until the annuitant's death as long as the annuitant does not retain any particular interest in those assets. It's also permissible for the charity to reinsure the annuity with a commercial insurer.)

If a charity uses an annuity rate that is too high or the annuitant lives too long or the charity realizes a rate of return on investments that is too low, it could lose money. This is seldom the case, however, because almost all charities that issue CGAs closely follow the rates recommended by the American Council on Gift Annuities. Their suggested rates are deliberately designed to leave the charity (if the assumed rate of return is realized) with roughly half of the amount donated.

So there are pros and cons, impressive upsides—and some downsides to the CGA. And of course there are always alternatives to every charitable planning tool or technique.

PLEASE FEEL FREE TO CALL TO DISCUSS CGAs AND OTHER WAYS TO ENHANCE YOUR FINANCIAL SECURITY AND ACCOMPLISH YOUR PERSONAL, CHARITABLE, AND BUSINESS OBJECTIVES!

IF YOU PREFER TO RECEIVE “GOLDEN BULLETS” BY EMAIL, PLEASE SEND A NOTE TO ME AT: rwilson@fraserlawfirm.com. Thanks.

“Golden Bullets” is provided as a source of general information about current developments in the practice of estate planning and related topics. If you have questions regarding this issue or estate planning in general, please contact me prior to taking action.